

Appln. No. 09/892,340  
Amdt. dated May 27, 2004  
Reply to Office Action mailed January 27, 2004

### REMARKS

Applicant's attorney thanks the Examiner for the issuance of the Office Action mailed January 27, 2004. By the Office Action, Claims 1-6, 14 and 15 have been rejected under 35 U.S.C. §102(b) based upon Chaffrignon et al. U.S. Patent No. 5,919,232 (referred to hereinafter as "the Chaffrignon et al. Patent"), while the remaining claims (i.e., Claims 7, 8 and 9-13) have been rejected under 35 U.S.C. §103 based upon the Chaffrignon et al. Patent, either alone or in combination with Kugel U.S. Patent No. 5,634,931. For the following reasons, the Examiner's foregoing prior art rejections are respectfully traversed.

Applicant's invention as recited in independent Claim 1 relates to a prosthetic mesh system adapted for implantation in a body. As recited in Claim 1, the mesh system includes a mesh layer which is flexible such that the mesh layer has a generally flat shape when it is in a first condition and a generally collapsed shape when it is in a second condition. According to Claim 1, the mesh layer has at least one ridge **formed integrally therewith** and projecting therefrom in a direction substantially perpendicular to the mesh layer when the mesh layer is in the first condition. The ridge is sized and shaped so as to facilitate the movement of the mesh layer **from** its collapsed shape **to** its flat shape. In addition, the mesh layer in the location of the ridge has **a rigidity which is not greater than** the rigidity of the rest of the mesh layer.

The primary reference cited in the Office Action (i.e., the Chaffrignon et al. Patent) discloses a prosthetic fabric including a sheet (6) having a textile structure which is capable of having two different shapes (i.e., a flat, unfolded arrangement; and a folded,

gathered arrangement). The sheet (6) has a continuous filiform element (5) which has two gripping ends (5a, 5b). The filiform element (5) is connected to the sheet (6) by a plurality of catching points (8) such that the sheet (6) can be folded into its folded arrangement when the gripping ends (5a, 5b) are pulled away from one another. The filiform element (5) and the sheet (6) are arranged freely from one another such that the filiform element (5) can be removed completely from the sheet (6). When the filiform element (5) is removed from the folded sheet (6), the sheet (6) returns from its folded arrangement to its flat, unfolded arrangement.

It is respectfully submitted that the Chaffrignon et al. Patent does not disclose or suggest applicant's invention as recited in Claim 1. More particularly, while the Office Action indicates that the filiform element (5) of the device disclosed in the Chaffrignon et al. Patent (referred to hereinafter as "the Chaffrignon device") is equivalent to the ridge recited in Claim 1 of the present application, applicant respectfully urges that the filiform element (5) is completely different, in structure and function, from the ridge of the present invention. For instance, the ridge of the present invention as recited in Claim 1 is formed **integrally** with the mesh layer and is **not** hence removable therefrom. In direct contrast, the filiform element (5) of the Chaffrignon device is arranged **freely** relative to the sheet (6) such that it can be **removed completely** from the sheet (6). In such circumstances, the Chaffrignon et al. Patent not only fails to disclose but also teaches away from the concept of providing a ridge which is formed **integrally** with a mesh layer, as recited in Claim 1. Moreover, the mesh layer of the present invention in the location of the ridge has a rigidity which is **not greater than** the rigidity of the rest of the

mesh layer (see Claim 1), while there is no disclosure or suggestion in the Chaffrignon et al. Patent that the filiform element (5) is provided with such a rigidity (i.e., a rigidity not greater than that of the sheet (6)). In addition, the ridge of the present invention facilitates the movement of the mesh layer **from a collapsed shape to a flat shape**, while the filiform element (5) of the Chaffrignon device, when pulled at its ends, functions to move the sheet (6) **from a flat arrangement to a folded arrangement** (i.e., in a direction that is completely opposite to the movement of the mesh layer facilitated by the ridge of the present invention).

In view of the foregoing distinctions, it is respectfully submitted that the present invention as recited in Claim 1 is patentability distinguishable from the device of the Chaffrignon et al. Patent, regardless of whether it is considered alone or in combination with the secondary reference cited by the Examiner in the Office Action (i.e., Kugel U.S. Patent No. 5,634,931, which fails to disclose or suggest the novel features of Claim 1 discussed above). In such circumstances, it is believed that Claim 1 is in condition for allowance together with the remaining pending claims (i.e., Claims 2-16), all of which depend therefrom.

New Claims 21 and 22 have also been inserted into this application. More particularly, new Claims 21 and 22 recite additional novel features of the present invention and therefore further distinguish from the prior art references cited in the Office Action. For instance, new Claim 21 recites that the ridge is formed monolithically with said mesh layer, while new Claim 22 recites that the mesh layer and the ridge are formed as a single piece.

Since the filiform element (5) disclosed in the Chaffrignon et al. Patent is removably

Appln. No. 09/892,340  
Amdt. dated May 27, 2004  
Reply to Office Action mailed January 27, 2004

connected to its corresponding mesh sheet, the Chaffrignon et al. Patent fails to disclose or suggest any of the novel features recited in new Claims 21 and 22. In any event, since new Claims 21 and 22 depend from independent Claim 1, it is believed that both of them are in condition for allowance.

Based upon the foregoing comments, applicant respectfully requests reconsideration and allowance of Claims 1-15, as well as consideration and allowance of new Claims 21 and 22. Should there remain any questions or other matters whose resolution could be advanced by a telephone call, the Examiner is cordially invited to contact applicant's undersigned attorney at his number below.

It is believed that no fees are attributable to this Amendment. Should there be any fees required as a result of this Amendment, including any extension fees, the Examiner is authorized to charge them to Deposit Account No. 501402.

Respectfully submitted,

McCARTER & ENGLISH, LLP



By: John K. Kim  
Reg. No. 37,002

McCarter & English, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, New Jersey 07102  
(973) 622-4444, Ext. 2646

NWK2: 1182334.01